

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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## ORDER

Presently before the Court are Defendant's Motion for Reconsideration (Doc. #148) and Emergency Motion to Stay Execution of Judgment (Doc. #149) filed on January 5, 2011. Plaintiffs filed a Response in opposition of Defendant's Motion (Doc. #153) on January 20, 2011. Defendant filed a Reply (Doc. #155) on January 31, 2011. Defendant withdrew its Emergency Motion to Stay Execution of Judgment (Doc. #154) on January 26, 2011. Also before the Court is Plaintiffs' Motion to File a Sur-Reply (Doc. #152), filed on January 18, 2011.

The Parties are familiar with the facts in this action and the Court will not repeat them here except as necessary. Plaintiffs brought suit in this Court in August 2007 for breach of contract, anticipatory breach, and declaratory relief, alleging Defendant Archon Corporation (“Archon”) did not properly calculate the equitable preferred shares dividends and liquidation preference according to the terms of Archon’s Certificate of Incorporation (“Certificate”). In August 2008, this Court granted partial summary judgment to Plaintiffs,

1 holding that the Certificate was unambiguous and Plaintiffs' interpretation of the Certificate  
2 which results in compound dividends is correct. (Order (Doc. #80).) In December 2010,  
3 this Court ruled on Plaintiffs' remaining claims and entered final judgment in favor of  
4 Plaintiffs in the amount of \$9,515,579.50. (Order (Doc. #145).) Defendant requests  
5 reconsideration of this entry of final judgment.

6 In its Motion for Reconsideration, Archon does not present new evidence or a  
7 change in controlling law. Rather, Archon attempts to re-litigate issues originally decided  
8 in the Court's 2008 Order. The Court's 2008 Order is not clearly erroneous. Therefore,  
9 reconsideration on this issue is inappropriate and will be denied.

10 IT IS THEREFORE ORDERED that Defendant's Motion for Reconsideration  
11 (Doc. #148) is hereby DENIED.

12 IT IS FURTHER ORDERED that Plaintiffs' Motion for Leave to File Sur-Reply  
13 (Doc. #152) is hereby GRANTED.

14 DATED: February 4, 2011.

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16 PHILIP M. PRO  
17 United States District Judge  
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